6465008/2022/OP-I-AGC01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Servants – Agricultural Marketing Department – Departmental proceedings initiated by framing article of charge against Sri K. Jayasekhar, the then Executive Engineer(AM), Vijayawada & Executive Engineer(AM) (U/s), Visakhapatnam on the allegation of sexual harassment – Case entrusted to Commissioner of Inquiries – Charge held proved – Imposing of penalty of "Dismissal from Service" – Orders – Issued.

==========

AGRICULTURE AND COOPERATION (VIG.II) DEPARTMENT

G.O.Ms.No.56 **Dated:10.10.2022**

Read the following:-

1. From the C&DoAM, AP, Letter No.DS(1)11971/2014, dated:25-08-2014.
2. G.O.Rt.No.486, A&C(Vig.II)Dept., dated:01-09-2014.
3. From the C&DoAM, AP, Letter No.DS(1)11971/2014, dated: 18-04-2015.
4. G.O.Rt.No.658, A&C(Vig.II)Dept., dated:10-09-2015.
5. G.O.Rt.No.151, A&C(Vig.II)Dept., dated:24-02-2016.
6. G.O.Rt.No.354, A&C(Vig.II) Dept., dated:21-05-2018.
7. G.O.Rt.No.375, A&C(Vig.II) Dept., dated:29-05-2018.
8. Govt.Memo. No.7492/Vig.II(1)/2014, dated:11-10-2018.
9. G.O.Rt.No.293, A&C(Vig.II)Dept., dated:12-04-2019.
10. Judgement dated:15-07-2019 in C.C.No.1357/2008 of the Hon'ble III Addl.Judicial Magistrate of the First Class cum III Addl.Junior Civil Judge, Kakinada, East Godavari District.
11. G.O.Rt.No.474, A&C(Vig.II)Dept., dated;30-07-2019.
12. Govt.Memo No.7492/Vig.II(1)/2014, dated:13-03-2020.
13. From the COI-RPS, Inquiry Report dated:11-01-2021.
14. Govt.Memo No.7492/Vig.II(1)/2014, dated:19-02-2021.
15. From Sri K. Jayasekhar, the then E.E.(AM), Vijayawada & presently E.E.(AM), Visakhapatnam, representation dated: 05-08-2021.
16. Judgement dated:08-09-2021 in Criminal Appeal No.332 of 2019 of the Hon'ble III Addl.District and Sessions Judge, Kakinada, East Godavari District.
17. From Sri K. Jayasekhar, the then E.E.(AM), Vijayawada & presently E.E.(AM), Visakhapatnam, representation dated: 24-09-2021.
18. From the C&DoAM, AP, Guntur, Letter No.D.S.(1)11971/2014, dated:19-07-2022.
19. Govt.Letter No.MKTG/7492/Vig.II/2014, dated:24-07-2022.
20. From the Secretary, APPSC, Letter No.GAD03-APPSC0DCC/61/2022-DC.SEC-APPSC (Computer No.1804958), dated:16-09-2022.

--oOo--

O R D E R:

Based on the report of the Commissioner & Director of Agricultural Marketing, A.P. on the allegation of sexual harassment and torture of Smt. U. Varalakshmi, Out Sourcing Non-Technical Work Inspector, O/o Deputy Executive Engineer(AM), Kakinada, the Government had placed Sri K.Jayasekhar, Executive Engineer(AM), Vijayawada under suspension vide G.O.2nd read above. On these allegations, Government, had also initiated departmental proceedings by framing the following article of charge against the said Accused Officer vide G.O.4th read above:-

(P.T.O.)

Article of Charge:

"That, the said Sri K. Jayasekhar, Executive Engineer(AM), while working as Executive Engineer(AM) (U/s), Vijayawada caused sexual harassment and outrage modesty of Smt. U. Varalakhami, Non-Technical Work Inspector(Out-Sourcing), O/o Deputy Executive Engineer(AM), Kakinada, during his visits to the Sub-Division office, Kakinada in absence of Deputy Executive Engineer, Assistant Engineer and often he used to threaten to withdraw her services unless she accepts his obscene and sexual explicit activities. And also he used to sit in the late nights and used to call her to office in the late night and forced her to attend his personal service".

"Thus Sri K. Jayasekhar, Executive Engineer(AM)(U/s) by his above mentioned act, exhibited lack of integrity, devotion to duty and conduct unbecoming of a Government Servant and thereby contravened the Rule 3 of A.P.C.S.(Conduct)Rules, 1964. Hence, the charge".

2. Smt. U. Varalakshmi, Out Sourcing Non-Technical Work Inspector, O/o Deputy Executive Engineer(AM), Kakinada lodged a complaint with Karapa Police Station on sexual harassment against Sri K.Jayasekhar, Executive Engineer(AM), Vijayawada and Police have registered a case in FIR No. 109/2014 U/s 354 IPC on 21-08-2014 against the Executive Engineer(AM), Vijayawada.

3. The Charged Officer has not submitted his written statement of defence to the charges framed against him. Subsequently, Government, have reviewed the suspension of Sri K. Jayasekhar, Executive Engineer(AM) and decided to revoke his suspension and reinstated him into service, without prejudice to the departmental proceedings initiated against him. Accordingly, vide G.O.5th read above orders were issued reinstating Sri K.Jayasekhar, Executive Engineer(AM) in to service and posted as Executive Engineer(AM), Kadapa in the existing vacancy.

4. In the G.O.6th read above, orders were issued appointing Sri P.K.Sarangi, IFS, Commissioner of Inquiries as Inquiring Authority to inquire into the charge framed against the Charged Officer and also appointed the Joint Director of Marketing(Vigilance), O/o Special Commissioner & Director of Agricultural Marketing, AP as Presenting Officer to present the case on behalf of the disciplinary authority. Subsequently, vide G.O.11th read above, modified orders were issued appointing Sri R.P.Sisodia, IAS, Principal Secretary to Government(Poll.), General Administration Department as Commissioner of Inquiries to inquire into the charge framed against Sri K. Jayasekahar, Executive Engineer(AM).

5. The Hon'ble III Addl.Judicial Magistrate of the First Class cum III Addl.Junior Civil Judge, Kakinada, East Godavari District has issued orders dated:15-07-2019 in C.C.No.1357/2018 that, the accused found not guilty for the offense punishable under section 353 and 506 of IPC. Accordingly, he is acquitted under section 248 (1) Cr.PC for the offense punishable under section 353 and 506 of IPC in C.C No.1357/2018 in Cr.No.109/2014.

6. After conducting the regular inquiry, the Commissioner of Inquiries-RPS has furnished the inquiry report dated:11-01-2021 concluding that the Charged Officer is guilty of the charge of attempting to outrage modesty of a woman. Hence, the lone charge against him stands proved. The Charge-I framed against Charged Officer is held as proved.

(Contd...3)

7. In the Govt.Memo dated:19-02-2021, while furnishing a copy of the inquiry report dated:11-01-2021, the Charged Officer Sri K. Jayasekhar, Executive Engineer(AM) was requested to submit his explanation, if any, on the findings of the Inquiring Authority.

8. In turn, the Charged Officer Sri K. Jayasekhar, the then Executive Engineer(AM), Vijayawada has submitted his explanation in the representation dated:05-08-2021 stating that, the observations and findings of the learned Commissioner of Inquiries are very vague and not given any specific reason to hold the charge is proved. Therefore, the Charged Officer has stated that, the findings of learned Commissioner of Inquiries are pervasive and unjustified and hence, he has requested to drop further action against him.

9. When consulted, the Law Department in Government have informed that, the Hon'ble Supreme Court in Samar Bahadur Singh v. State of U.P., Civil Appeal No. 7643 OF 2011 (Arising out of SLP(C) No(s).14722/2004) has held that,-

> **"Acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceedings as the standard of proof in both the cases are totally different. In a criminal case, the prosecution has to prove the criminal case beyond all reasonable doubt whereas in a departmental proceedings, the department has to prove only preponderance of probabilities."**
>
> **Keeping in view of the above and basing on the report of COI, the administrative department may take necessary action in the matter.**

10. The III Addl.District and Sessions Judge, Kakinada, East Godavari District, in his judgement dated:08-09-2021 in Criminal Appeal No.332 of 2021 filed by Smt. U. Varalakshmi, Employee, Kakinada, has ordered as follows: -

> **"In the result, the appeal is dismissed by confirming the Calendar and Judgement of the lower court dated:15-07-2019 in C.C.No.1357/2018 passed by the III Additional First Class Magistrate, Kakinada".**

11. The Charged Officer Sri K. Jayasekhar, the then Executive Engineer (AM), Vijayawada & presently Executive Engineer(AM), Visakhapatnam, in his representation dated:24-09-2021, has requested to consider the judgement in Criminal Case before taking further decision and do justice to him.

12. In the G.O.Ms.No.2, General Administration(Ser.C) Department, dated:04-01-1999, the Government have directed that in all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed.

(P.T.O.)

13. After thorough examination of the entire matter with reference to the record of inquiry, Government have provisionally decided to impose a penalty of "Dismissal from Service" on Sri K. Jayasekhar, the then Executive Engineer(AM), Vijayawada & presently Executive Engineer(AM), Visakhapatnam, as the Charge framed against him is held proved, in the regular inquiry conducted by the Commissioner of Inquiries-RPS in the above said sexual harassment departmental case. Accordingly, Andhra Pradesh Public Service Commission was addressed for their concurrence on the decision of the Government.

14. In the reference 20th read above, the Secretary, Andhra Pradesh Public Service Commission, has informed that, Commission agrees with the proposal of the Government to impose a penalty of "Dismissal from Service" on Sri K. Jayasekhar, the then Executive Engineer(AM), Vijayawada & Executive Engineer(AM), Visakhapatnam and advise accordingly.

15. Therefore, in view of the facts and circumstances stated above, Government, after thorough examination of the matter with reference to the record of inquiry, hereby order to impose a penalty of "Dismissal from Service" on Sri K. Jayasekhar, the then Executive Engineer(AM), Vijayawada & Executive Engineer(AM)(U/s), Visakhapatnam, as the Charge framed against him is held proved, in the regular inquiry conducted by the Commissioner of Inquiries-RPS in the instant sexual harassment departmental case.

16. The Commissioner & Director of Agricultural Marketing, A.P., Guntur shall take further necessary action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

CHIRANJIV CHOUDHARY, IFS,
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri K. Jayasekhar, the then Executive Engineer(AM), Vijayawada &
Executive Engineer(AM)(U/s), Visakhapatnam.
(Through:- The Commissioner & Director of Agricultural Marketing,
A.P., Guntur)

Copy to:-
The Commissioner & Director of Agricultural Marketing, A.P., Guntur.
The Accountant General, A.P., Vijayawada.
The Secretary, A.P.P.S.C., Vijayawada.
The Secretary, A.P.V.C., A.P. Secretariat.
The Government Pleader for Services(AM),
High Court of Andhra Pradesh, Nelapadu, Amaravati.
✓ SF/SC.

// FORWARDED :: BY ORDER //

K. Sampath Kumar
SECTION OFFICER